

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
NORFOLK DIVISION**

MEGAN JONCAS,

Plaintiff,

v.

RAFIQUE THOMPSON,

AND

WERNER ENTERPRISES, INC.,

Defendants.

Civil Action No. 2:21cv163

Circuit Court for the City of
Suffolk, Virginia

Case No. CL-21-599

NOTICE OF REMOVAL

PLEASE TAKE NOTICE that Defendant Werner Enterprises, Inc. (“Werner”) respectfully files this Notice of Removal pursuant to 28 U.S.C. §§ 1332, 1441, and 1446, to remove to the United States District Court for the Eastern District of Virginia an action initiated against them in the Circuit Court for the City of Suffolk, Virginia. Removal of this action is based on the following:

1. On March 4, 2021, Plaintiff Megan Joncas filed a civil action against defendants Rafique Thompson and Werner in the Circuit Court for the City of Suffolk, Virginia, case number CL-21-599 (hereinafter “State Court Action”). In accordance with 28 U.S.C. § 1446(a), a true and correct copy of all process, pleadings and orders served upon Werner Enterprises in the State Court Action is attached to this Notice of Removal as **Exhibit A** and incorporated herein by reference.

2. The Complaint in the State Court Action asserts negligence claims against the defendants arising from a motor vehicle accident at the intersection of Chappell Drive and

Holland Road in Suffolk, Virginia. (Ex. A, Compl.)

3. Werner was first served with process and the Complaint in the State Court Action on March 12, 2021. This Notice of Removal is timely because it is filed within thirty (30) days of Werner's receipt of service of process and the Complaint in the State Court Action. 28 U.S.C. § 1446(b).

4. The Eastern District of Virginia, Norfolk Division, is the federal district embracing the City of Suffolk, Virginia, where the State Court Action was originally filed. 28 U.S.C. § 127(a). Thus, venue is proper in this District. 28 U.S.C. § 1441(a).

BASIS FOR REMOVAL – DIVERSITY JURISDICTION

5. The State Court Action is removable under 28 U.S.C. § 1332(a). The Court has subject matter jurisdiction over the State Court Action because it is between citizens of different states and the amount in controversy exceeds \$75,000.00 and arises under the laws of the United States. 28 U.S.C. §1332(a).

6. A corporation is a citizen of its state of incorporation and the state where its principal place of business is located. 28 U.S.C. § 1332(c)(1). For cases removed based on diversity jurisdiction, diversity is measured both when the state-court action is commenced, and when the state-court action is removed. Rowland v. Patterson, 882 F.2d 97, 99 (4th Cir. 1989) (en banc) (explaining that “diversity must have existed both at the time the action was originally commenced in state court and at the time of filing the petition for removal” (citing 14A Charles A. Wright et al., Federal Practice and Procedure § 3723, at 311–14 (1985))).

7. Werner is now, and was at the time of the filing of the Complaint, a corporation organized under the laws of Nebraska with its principal place of business in Omaha, Nebraska.

8. Defendants who are not served may be ignored, both for jurisdictional purposes and for the purpose of requiring their joinder in the notice of removal. Werner, nonetheless, notes that the unserved defendant, Mr. Thompson, is not a resident of the Commonwealth of Virginia. Mr. Thompson is now, and was at the time of filing of the Complaint, a resident of the State of Florida.

9. Collectively, defendants are now, and were at the time of the filing of the Complaint, citizens of Florida and Nebraska.

10. On information and belief, plaintiff is now, and was at the time of the filing of the Complaint, a citizen of the Commonwealth of Virginia.

12. In view of the allegations in plaintiff's Complaint, Werner is informed and believes that the amount in controversy in this case, exclusive of interest and costs, exceeds \$75,000.00 and thus satisfies the amount in controversy specified in 28 U.S.C. § 1332(a). Plaintiff's Complaint requests judgment against all defendants in the amount of \$3,750,000.00. (Ex. A, Compl.)

13. If any question arises regarding the propriety of the removal of this action, Werner respectfully requests the opportunity to conduct jurisdictional discovery (if necessary), file a brief, and present oral argument to confirm that this Court has jurisdiction and that this case has been properly removed.

NOTICE

14. In accordance with 28 U.S.C. § 1446(d), prompt written notice of the filing of this Notice of Removal is being given to all other parties, and a true and correct copy of the Notice of Removal is being filed with the Circuit Court for the City of Suffolk, Virginia.

CONSENT

15. Defendants who are not served may be ignored, both for jurisdictional purposes and for the purpose of requiring their joinder in the notice of removal.

WHEREFORE, Werner, by counsel, respectfully prays that the State Court Action be removed from the Circuit Court for the City of Suffolk, Virginia, to the United States District Court for the Eastern District of Virginia, in accordance with 28 U.S.C. § 1441, and for such further legal, equitable, or other relief that the Court deems just and proper.

This the 29th day of March, 2021.

Respectfully submitted,

WERNER ENTERPRISES, INC.,

By: /s/
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